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REMARKS

This Amendment is responsive to the Office Action dated October 15, 2001. In that Action, the Examiner objected to claims 1, 5 and 15. Claims 1-13 were rejected under 35 U.S.C. 112, second paragraph. Claims 1-21 were rejected under 35 U.S.C. §102(a) as being anticipated by the Halcyon publication dated 8/22/00 ("Halcyon publication"). Claims 1-8 and 12-21 were rejected under 35 U.S.C. §102(b) as being anticipated by Carmichael. Claims 1-8 and 12-21 were rejected under 35 U.S.C. §102(b) as being anticipated by Anderson. Claims 1-21 were rejected under 35 U.S.C. §102(f). Applicant respectfully traverses the Examiner's rejections and offers the foregoing amendments in support thereof.

Claims 1, 5, 13 and 15 have been amended. Claims 1-21 remain pending in the Application. No new matter has been inserted. Applicant respectfully requests reconsideration of the Examiner's rejections.

The claims have been amended to overcome all objections and Section 112 rejections.

Claims 1-21 stand rejected under 35 U.S.C. §102(a) as being anticipated by the Halcyon publication. Applicant respectfully submits that the Halcyon company is one of the Applicant's companies. Thus, the product shown in the Halcyon publication is one embodiment of Applicant's invention, not the product of another. Applicant is enclosing herewith as Exhibit A a website printout showing that Applicant Robert Carmichael is an officer in several dive companies, including Halcyon. Applicant will readily provide a sworn Declaration for the above, if deemed necessary by the Examiner. Accordingly, Applicant respectfully traverses the Examiner's rejection of claims 1-21 under 35 U.S.C. §102(a) as

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being anticipated by the Halcyon publication and also respectfully requests withdrawal of such rejection.

Claims 1-8 and 12-21 were rejected under 35 U.S.C. §102(b) as being anticipated by Carmichael. Applicant respectfully disagrees with the Examiner's position that item 100 in Carmichael is a side release buckle. Item 100 is identified in Carmichael as a handle. There is no side releasable buckles used in Carmichael for the releasing the ballast. Carmichael uses a hook and loop fastening assembly for securing the flap to the rest of the pocket to keep the ballast within the pocket. Handle 100 is not the equivalent of the side releasable buckle disclosed by Applicant in the application. Accordingly, Applicant respectfully traverses the Examiner's rejection of claims 1-8 and 12-21 under 35 U.S.C. §102(b) as being anticipated by Carmichael and also respectfully requests withdrawal of such rejection.

Claims 1-8 and 12-21 were rejected under 35 U.S.C. §102(b) as being anticipated by Anderson. Like Carmichael, Anderson relies on a hook and loop fastening system for maintaining the ballast within the pocket. Applicant's invention teaches away from using a hook and loop fastening assembly. Item 84 in Anderson is not a side release buckle as claimed by Applicant. During the dive item 84 isn't activated by the diver, as it is wedged between the buoyancy compensator and the diver. Item 84 is not used for releasing weight as claimed by Applicant. Rather, d-ring 78 is pulled by the diver, which breaks the hook and loop connection to release the weight. Accordingly, no side release buckle is shown in Anderson. Accordingly, Applicant respectfully traverses the Examiner's rejection of claims 1-8 and 12-21 under 35 U.S.C. §102(b) as being anticipated by Anderson and also respectfully requests withdrawal of such rejection.

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Claims 1-21 were rejected under 35 U.S.C. §102(f). Applicant respectfully submits that Applicant is the inventor of the claimed subject matter and that the priority claim to U.S. Application No. 09/628,836 ('836 Application) is proper. By Agreement between Applicant and the Assignee of the '836 Application, Assignee was required to correct the inventorship for the '836 Application by adding Robert Carmichael as a co-inventor.

Rather, then filing a Petition to correct the inventorship in the '836 Application, the Assignee of the '836 Application, relying on MPEP §201.03¹, filed a continuation application (09/916,414) on July 26, 2001, listing both Sergio Angellini and Robert M. Carmichael as co-inventors. As seen be Exhibit B, the '414 Application was published on January 31, 2002, listing Carmichael as a co-inventor. As the '414 Application is a straight continuation application (i.e. no new matter) of the '836

¹ MPEP §201.03 in pertinent states: Correction of inventorship may also be obtained by the filing of a continuing application under 37 CFR 1.53 without the need for filing a request under 37 CFR 1.48, either in the application containing the inventorship error (to be abandoned) or in the continuing application. The continuing application must be filed with the correct inventorship named therein. The filing of a continuing application to correct the inventorship is appropriate if at least one of the correct inventors has been named in the prior application (35 U.S.C. 120 and 37 CFR 1.78(a)(1)). That is, at least one of the correct inventors must be named in the executed oath or declaration filed in the prior application, or where no executed oath or declaration has been submitted in the prior application but the names of the inventors were set forth in the application papers pursuant to 37 CFR 1.41(a)(1). Where the names of the inventors are to be added, correction of inventorship can be accomplished by filing a continuing application under 37 CFR 1.53(b) with a newly executed oath or declaration under 37 CFR 1.63(a). Where the name of an inventor(s) is to be deleted, applicant can file a continuing application with a request for deletion of the name of the inventor(s). The continuing application may be filed under 37 CFR 1.53(b) or 37 CFR 1.53(d).

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application, it follows that Carmichael is also a co-inventor of the subject matter contained in the '836 application. Thus, Carmichael (Applicant) did invent the subject matter of the instant application and the priority claim to the '836 application is proper. Accordingly, Applicant respectfully traverses the rejection of claims 1-21 under 35 U.S.C. §102(f) and also respectfully requests that such rejection be withdrawn.

Applicant has completely responded to the Office Action dated October 15, 2001. Favorable action is respectfully requested.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current Amendment. The first page of the attached pages is captioned "Version with markings to show changes made".

If there are any additional charges, including extension of time, please bill our Deposit Account No. 13-1130.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

Please amend the application as follows:

1. (Amended) An active control releasable ballast system for dive equipment, comprising:
 - a ballast receiving pocket;
 - a ballast member stored within said receiving pocket prior to release of said ballast member;
 - a first strap attached at least [ap]proximate to said receiving pocket;
 - a second strap attached at least [apl]proximate to said receiving pocket, said second strap associated with said ballast member; and
 - a side releasable buckle having a first section and a second section, said first section of said side releasable buckle attached to said first strap, said second section of said side releasable buckle attached to said second strap, wherein prior to release of said ballast member said first section and said second section are connected to each other.
5. (Amended) The active control releasable ballast system of claim 1 wherein said second strap is adapted for attachment to said dive equipment.
13. (Amended) The active control releasable ballast system of claim 1 wherein a location of said side releasable buckle with respect to said receiving pocket provides for a single point active fastening device and handle for active control of said ballast pre-insertion, during use and post release of said ballast.

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15. (Amended) The buoyancy compensator of claim 14 wherein said active control releasable ballast system further including:
a ballast receiving pocket;
a ballast member disposed within said receiving pocket;
a first strap attached at least [ap]proximate to said receiving pocket; and
a second strap attached at least [ap]proximate to said receiving pocket;
wherein said first section of said side releasable buckle attached to said first strap, said second section of said side releasable buckle attached to said second strap, wherein prior to removable of said ballast member from said receiving pocket said first section and said second section are connected to each other.